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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,548	04/16/2004	James N. Maiocco	044897.002CONT	2097

25461 7590 12/04/2006

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EXAMINER

JEAN, FRANTZ B

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/826,548

Applicant(s)

MAIOCCO ET AL.

Examiner

Frantz B. Jean

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to application filed on 04/16/04. Claims 1-44 are presented for examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 04/16/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

Claims 5-6 and 25-26 have been repeated twice. For purpose of examination, the second set of claims 5-6 and 25-26 and any other following claims have been renumbered. For example, second set of claims 5-6 becomes 7-8. Correction is required including all the claims that depend on the renumbered claims in order to avoid lack of antecedence basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Moran et al. ("Moran") US patent Number 6,801,940 B1.

As per claims 1 and 23, Moran teaches a system for monitoring performance of a global network comprising:

A poller for requesting and receiving SNMP-attribute data from a monitored device across a public wide area network (col. 5 lines 53-59; col. 11 lines 28-43); a database (col. 15 lines 1-5; lines 60 et seq) for storing received SNMP-attribute data; and a graphical user interface (col. 5 lines 2-7; lines 60 et seq) to the received SNMP-attribute data stored in the database.

As per claims 2 and 24, Moran teaches a notifier analyzing time-based performance criteria for providing alerts to a user when received SNMP-attribute data meets one or more established threshold criteria for the monitored device (col. 11 lines 37-43; col. 15 lines 8-12; col. 5 lines 53-59).

As per claims 3-4 and 25-26, Moran teaches a VPN (col. 49 line 49).

As per claims 5-6 and 27-28, Moran teaches wireless network (see fig 1).

As per claims 7-8 and 29-30, Moran teaches VoIP (col. 42 lines 22-26).

As per claims 9-10 and 31-32, Moran teaches performance metrics for VPN tunnel (see abstract; col. 35 lines 25 et seq; col 64 lines 37 et seq).

As per claims 11 and 33, Moran teaches a graphical user interface provided by an application service provider (col. 5 lines 2-7; lines 60 et seq).

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As per claims 12, 14-16, 34 and 36-38, Moran teaches data access across a firewall insulating the monitored device from the network (col. 48 line 65 to col. 49 line 18).

As per claims 13 and 35, Moran teaches an Internet browser (standard web browser 406).


As per claims 17-22 and 39-44, Moran teaches a graph generator for displaying one or more graphs of one or more performance metrics based on the received SNMP-attribute data (see fig 24, graph server and fig 25).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Frantz Jean



FRANTZ B. JEAN
PRIMARY EXAMINER